

Serial No. 10/647,787  
Examiner: FLEMING, Faye M.  
Art Unit 3916

Page 7 of 9

## REMARKS

By this amendment claims 3-5, 10-12, 15, 17, 19 and 25-26 have been amended. Claims 1 and 2 has been cancelled. Claims 27 and 28 have been added. No new matter has been entered. Accordingly, claims 3-28 are now pending in the application. The specification has also been amended. Reconsideration and allowance of all of the claims are respectfully requested in view of the foregoing amendments and the following remarks.

### Regarding Office Action Paragraph 1 – Objection to the Specification

Paragraph [0017] has been amended to add the following, in order to provide a description of an "ATV-type tire": "The front wheels define the front axis and the rear wheels define the rear axis. Each of the wheels includes an ATV-type tire, i.e. a low-pressure balloon tire having an air pressure of less than 1 kg/cm<sup>2</sup>."

It is believed that this description is already present in the application, as the vehicle described therein is an ATV, it is shown in the drawings have ATV-type tires, and this definition is known by a person skilled in the art of ATVs. For example see U.S. Patent 4,860,850, assigned to the present assignee's competitor Honda, wherein, at col. 3, lines 57-60 it states: "The wheels Wf, Wlr, Wrr each has a wide extremely low pressure tire T, for example, so-called balloon tire whose air pressure is less than 1 kg/cm<sup>2</sup>, mounted thereon."

Reconsideration and withdrawal of the objection is respectfully requested.

### Regarding Office Action Paragraphs 2 and 3 – Rejection under 35 U.S.C. 112

Claim 2 is rejected under 35 U.S.C. 112 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Examiner believes that the expression "an ATV-type tire" is unclear. In response, the claims have been amended to remove this expression from independent claim 1 (now new independent claim 27) and place it in claim 28. In view of the above amendment to the specification, it is believed that the Examiner's rejection in this regard has been overcome.

Reconsideration and withdrawal of this rejection is respectfully requested.

### Regarding Office Action Paragraphs 4 and 5 – 35 U.S.C. 103

Examiner has rejected claims 1, 2, 4-10, 15-18, 24-26 under 35 USC 103(a) as being obvious in view of Matsuura (US Pat. No. 6,622,806). Applicants disagree.

On a preliminary note, Applicants have replaced independent claim 1 and claim 2 by new independent claim 27 so as to clarify the claimed invention. These amendments are not required by the Examiner's rejections and no surrender of subject matter is intended thereby.

With respect to the rejection, Applicants note that the ATV described and depicted in Matsuura is a conventional single-person ATV. Although as described in the present application (and in Matsuura), it is possible to put two-persons on such an ATV, the vehicle is not designed for this and operators of such vehicles are instructed not to do this by vehicle manufacturers. Thus when Matsuura states: "[w]ith reference now to Fig. 2, a pair of footsteps 50 extend laterally from a central portion of the illustrated vehicle 10. The footsteps

Serial No. 10/847,787  
Examiner: FLEMING, Faye M.  
Art Unit 3616

Page 8 of 9

50 can be mounted to the frame assembly 12 in any suitable manner... The footsteps 50 preferably include traction increasing surfaces, such as raised ridges 54 to increase foot traction for the operator of the vehicle 10..." it is referring only to a single-person vehicle. The footrests thereof are only designed for a single person, i.e. the driver. See the background section of the present application for what would happen if two persons were to be seated on this vehicle.

The claims of the present application recite "right and left footrests connected to the frame that each include a front footrest for the driver and a rear footrests for the passenger, each of the footrests constructed and arranged such that the feet of the driver and the passenger can both be accommodated thereon along an axis parallel to a longitudinal axis of the vehicle". This is clearly not shown nor described in Matsuura.

Further, the Examiner then goes on to state that with respect to the wheelbase, it would have been obvious design choice to have the wheelbase a specific size and/or a size within a specific range, since such a modification would have involved a mere change in the size of a component, and a change in size is generally recognized as being within the level of ordinary skill in the art. With respect, this is incorrect in the present situation as two-seater ATVs did not previously exist prior to the present invention thereof by the Applicants. Since two-seater ATVs did not exist, the wheelbases thereof did not exist either. It cannot therefore be possible for the recitation of the wheelbase in the current claims to be "a mere change in the size of a component", when the component did not heretofore exist.

With respect, the Examiner is incorrectly applying the law based on her incorrect understanding of the facts. As has been stated, two-seater ATVs did not exist prior to the invention thereof by the Applicants. Therefore it is not possible that the general conditions of claim are disclosed in the prior art since the claims are all limited to two-seater ATVs. Thus the discovery of the optimum or workable ranges of the variable set forth in the claims cannot involve only routine skill in the art in the present case.

Furthermore, even if this were not the case, the Examiner's statement of the law is incomplete. See MPEP 2144.05 II B. The complete statement is that "A particular parameter must first be recognized as a result-effective variable, i.e. a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977)".

Applying the correct legal test to the present case, as two-seater ATVs did not previously exist, it is not possible that the particular parameter (being the wheelbase on two-seater ATV) could have been recognized in prior art as a result-effective variable. For this reason as well then it cannot therefore be said that the recitation of these variables in the present claims is simply the determination of the optimum or workable range thereof which could be characterized as routine experimentation.

The present claims are thus neither anticipated by, nor obvious in view of, Matsuura.

Reconsideration and withdrawal of the rejection is respectfully requested.

### Conclusion

In view of the above amendments and remarks, the Applicant respectfully submits that all of the currently pending claims are allowable, and that the entire application is in condition for allowance.

Serial No. 10/647,787  
Examiner: FLEMING, Faye M.  
Art Unit 3616

Page 9 of 9

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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